

## REMARKS

### SUMMARY

In the Office Action of March 23, 2005, the Examiner rejected Claims 5-7 based on 35 U.S.C. §112, Claims 1-5, 8, 19, and 35-38 based on 35 U.S.C. §102, and still others on 35 U.S.C. §103(a), but acknowledged that Claims 6, 7, and 9 included allowable subject matter and allowed Claims 10-18 and 22-34. The claims that were objected to, namely, Claims 6, 7, and 9 are amended along the lines suggested by the Examiner. Applicant believes that the rejections based on 35 U.S.C. §112, 35 U.S.C. §102, and 35 U.S.C. §103(a) are now moot in view of these amendments. The specification is also amended to correct minor errors noted by the Examiner. This amendment does not add new matter.

### DISCUSSION OF PRIOR ART

Those claims which were rejected under 35 U.S.C. §102 in light of the disclosure in Vasudeva et al have been cancelled.

Submitted herewith is a Declaration of Messrs. Chen and Chang-Kao, the inventors identified in Chen Pub. No. US2004/0232631 A1. Messrs. Chen and Chang-Kao acknowledge that the Applicant is the prior inventor of the subject matter being claimed in the above-identified application. Therefore, the Chen reference is not prior art and the rejections predicated thereon both under 35 U.S.C. §102 and 35 U.S.C. §103(a) should be withdrawn.

## NO SURRENDER OF PATENTABLE SUBJECT MATTER

The Applicant does not consider the changes to Claims 6, 7 and 9 to be an amendment surrendering any patentable subject matter because the Examiner only objected to the form of these claims, requiring them to be rewritten in independent form. These amended claims broadly recite the subject matter that the Applicant believes is allowable based on the statements made by the Examiner in the last Office Action, taking into consideration the limitations of the English language and the inability of the Applicants to foresee all the possible equivalents that may be developed in the future. These claims re-presented in independent form avoid the application of the Festo doctrine, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd., et al 535 U. S. 722 (2002). The Applicant does not consider the changes in claims re-presented in independent form to be an amendment as contemplated in Festo. Consequently, these changes in the form of these claims do not result in surrendering any patentable subject matter because the Examiner only objected to the form, necessitating that they to be rewritten in independent form. Applicants intent to claim broadly the subject matter of their invention and not surrender equivalent subject matter by any narrowing amendment in making the changes to these claims. Therefore, claims re-written in independent form are entitled to the application of the doctrine of equivalents under Warner-Jenkinson v. Hilton Davis Chemical Co., 520 U. S. 17 (1997).

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In view of the above, the application is deemed to be in a condition for allowance and such action is solicited.

### **TELEPHONE INTERVIEW**

If the Examiner believes that a telephone interview would advance the allowance of this application, Applicant's attorney requests the Examiner call to arrange a date and time for such interview after having an opportunity to review the above.

### **EXTENSION OF TIME**

A 3-month extension to reply to the last Office Action is requested as indicated below.

### **EXTRA FEE**

Any additional fees should be charged to Applicant's attorney deposit account as indicated below.

### **CUSTOMER NUMBER**

Please note Applicant's attorney Customer No. 021905, and confirm that this customer number has been entered in the U. S. Patent & Trademark Office records in connection with the above-identified application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Connors". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John J. Connors, Reg. No. 24,157

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